

SENATE BILL 1065

E2, E4, R4

0lr3498
CF HB 1413

By: **Senators Colburn, Jacobs, and Stoltzfus**

Introduced and read first time: March 1, 2010

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Sexual Offenders Omnibus Act of 2010**

3 FOR the purpose of prohibiting the earning of diminution credits to reduce the term of
4 confinement of a certain inmate who is serving a sentence for a certain sexual
5 offense against a minor; eliminating parole eligibility for sexual offenders who
6 are serving terms of confinement for certain offenses against minors committed
7 on or after a certain date; providing that this Act does not restrict a certain
8 authority of the Governor to pardon or remit a certain sentence; repealing the
9 requirement that the Maryland Parole Commission administer extended sexual
10 offender parole supervision; altering certain provisions relating to extended
11 sexual offender supervision of certain offenders; altering the term for certain
12 extended sexual offender supervision; requiring a sentence for certain persons
13 to include a term of lifetime sexual offender supervision; altering the term of
14 lifetime sexual offender supervision; establishing that lifetime sexual offender
15 supervision is imposed on a defendant for a crime committed on or after a
16 certain date; requiring a certain sentencing court to impose certain conditions of
17 lifetime sexual offender supervision and to advise certain persons of the
18 conditions of lifetime sexual offender supervision; requiring the sentencing court
19 to order a presentence investigation under certain circumstances; authorizing a
20 certain sentencing court to adjust certain conditions of lifetime sexual offender
21 supervision under certain circumstances; establishing a certain offense and
22 penalty for violation of lifetime sexual offender supervision; authorizing certain
23 procedures for violations of lifetime sexual offender supervision; requiring
24 certain judges to hear certain violations and certain petitions; authorizing a
25 certain sentencing court to deny a certain petition under certain circumstances;
26 providing for the discharge of certain persons from lifetime sexual offender
27 supervision under certain circumstances; requiring a certain sentencing court to
28 hear and adjudicate certain petitions; altering the composition of a certain
29 sexual offender management team; requiring certain progress reports of a
30 certain sexual offender management team; prohibiting a District Court
31 commissioner from authorizing the pretrial release of a defendant who is

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 registered on a certain registry; authorizing the Department of Public Safety
2 and Correctional Services to adopt certain regulations; requiring the
3 Department, within a certain period of time after receiving a registration
4 statement, to send a copy of the registration statement to the Motor Vehicle
5 Administration; requiring rather than authorizing the Department to post on
6 the Internet certain information about a certain registrant; requiring the
7 Department to include the known aliases of a certain registrant on a certain
8 posting on the Internet; prohibiting a certain registrant who is arrested on
9 suspicion of any violation of the Code from being released from custody or
10 charges from being dropped until the registrant is brought before a certain
11 judge for a certain examination; creating a procedure in which a person who has
12 been convicted of a sexually violent offense and who suffers from a certain
13 mental abnormality or personality disorder may be placed in the custody of the
14 Secretary of Health and Mental Hygiene until the person meets certain criteria;
15 establishing that a term of extended parole supervision commences on the
16 expiration of a certain term of commitment to a certain State facility; requiring
17 the Commissioner of Correction of the Department to give notice to the Attorney
18 General before certain persons who have been convicted of certain sexually
19 violent offenses are released from confinement; requiring the Attorney General
20 to determine if certain persons meet the criteria of sexually violent offenders in
21 need of commitment; establishing certain procedures for determining whether
22 persons are sexually violent offenders in need of commitment; requiring that a
23 review committee of prosecutors and a multidisciplinary team be formed to
24 make recommendations concerning the identification of sexually violent
25 offenders in need of commitment; making the Commissioner and certain other
26 individuals immune from civil liability for acts performed in good faith in
27 carrying out this Act; specifying the criteria for finding a person to be a sexually
28 violent offender in need of commitment; authorizing the Attorney General to
29 petition the circuit court to find probable cause that a certain person is a
30 sexually violent offender in need of commitment; authorizing a court to order a
31 certain person taken into custody if the court determines certain probable cause
32 exists; authorizing a court to conduct a trial under certain circumstances to
33 determine if a certain person is a sexually violent offender in need of
34 commitment; allowing a certain person certain rights at trial; requiring that the
35 standard of proof at a trial to determine whether a person is a sexually violent
36 offender in need of commitment be that of proof beyond a reasonable doubt;
37 requiring that a person who is found to be a sexually violent offender in need of
38 commitment be placed in the custody of the Secretary of Health and Mental
39 Hygiene for control, care, and treatment at a State facility until the mental
40 abnormality or personality disorder of the person has so changed that the
41 person is not likely to engage in a certain act if released; requiring that a
42 certain committed person in a State facility be subject to an annual mental
43 examination and an annual status review hearing; authorizing the court to
44 determine at an annual status review hearing that probable cause exists to
45 believe that the committed person is not likely to engage in certain acts if
46 released; authorizing that a release hearing be held under certain
47 circumstances; establishing the procedures for certain hearings; requiring that
48 the court release a committed person under certain circumstances; providing

1 that this Act has no effect on the operation of certain provisions of the Code;
2 requiring the Administration, on receipt of a certain notice that a holder of or an
3 applicant for a driver's license or identification card has registered on a certain
4 registry, to place a prominent notation on any driver's license or identification
5 card issued to the holder or the applicant indicating that the holder is a sexual
6 offender registrant; prohibiting the removal of a certain notation unless the
7 Department provides a certain written notice to the Administration; making a
8 certain technical correction; deleting certain terms; making certain conforming
9 changes; defining certain terms; and generally relating to sexual offenders.

10 BY repealing and reenacting, with amendments,
11 Article – Correctional Services
12 Section 3–702, 7–206, and 7–301
13 Annotated Code of Maryland
14 (2008 Replacement Volume and 2009 Supplement)

15 BY adding to
16 Article – Criminal Procedure
17 Section 5–202(g) and 11–728
18 Annotated Code of Maryland
19 (2008 Replacement Volume and 2009 Supplement)

20 BY repealing and reenacting, with amendments,
21 Article – Criminal Procedure
22 Section 11–701, 11–704, 11–713, 11–717, and 11–723 through 11–726
23 Annotated Code of Maryland
24 (2008 Replacement Volume and 2009 Supplement)

25 BY repealing and reenacting, without amendments,
26 Article – Health – General
27 Section 1–101(a), (c), and (k) and 10–101(e) and (h)
28 Annotated Code of Maryland
29 (2009 Replacement Volume)

30 BY adding to
31 Article – Health – General
32 Section 10–636 through 10–646 to be under the new part “Part VI. Sexually
33 Violent Offender in Need of Commitment”
34 Annotated Code of Maryland
35 (2009 Replacement Volume)

36 BY adding to
37 Article – Transportation
38 Section 12–303.2
39 Annotated Code of Maryland
40 (2009 Replacement Volume and 2009 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Correctional Services**

4 3–702.

5 (A) Subject to **SUBSECTION (B) OF THIS SECTION**, § 3–711 of this subtitle,
6 and Title 7, Subtitle 5 of this article, an inmate committed to the custody of the
7 Commissioner is entitled to a diminution of the inmate’s term of confinement as
8 provided under this subtitle.

9 (B) **AN INMATE WHO IS SERVING A SENTENCE FOR A VIOLATION OF**
10 **TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE IN WHICH THE VICTIM**
11 **WAS A MINOR IS NOT ENTITLED TO A DIMINUTION OF THE INMATE’S TERM OF**
12 **CONFINEMENT AS PROVIDED UNDER THIS SUBTITLE.**

13 7–206.

14 The Commission shall:

15 (1) evaluate information on the activities of parolees that the Division
16 of Parole and Probation reports;

17 (2) issue warrants or delegate to the Director of the Division of Parole
18 and Probation the authority to issue warrants to retake parolees who are charged with
19 violating a condition of parole;

20 (3) review and make recommendations to the Governor:

21 (i) concerning parole of an inmate under a sentence of life
22 imprisonment; and

23 (ii) if requested by the Governor, concerning a pardon,
24 commutation of sentence, or other clemency;

25 (4) establish and modify general policy governing the conduct of
26 parolees; AND

27 (5) arrange for psychiatric or psychological examination of applicants
28 for parole whenever the Commission believes that an examination will better enable it
29 to decide on the advisability of parole and include the expense for the examination in
30 its annual budget[; and

31 (6) administer extended sexual offender parole supervision under Title
32 11, Subtitle 7 of the Criminal Procedure Article].

1 7-301.

2 (a) (1) Except as otherwise provided in this section, the Commission shall
3 request that the Division of Parole and Probation make an investigation for inmates in
4 a local correctional facility and the Division of Correction make an investigation for
5 inmates in a State correctional facility that will enable the Commission to determine
6 the advisability of granting parole to an inmate who:

7 (i) has been sentenced under the laws of the State to serve a
8 term of 6 months or more in a correctional facility; and

9 (ii) has served in confinement one-fourth of the inmate's
10 aggregate sentence.

11 (2) Except as provided in paragraph (3) of this subsection, or as
12 otherwise provided by law or in a predetermined parole release agreement, an inmate
13 is not eligible for parole until the inmate has served in confinement one-fourth of the
14 inmate's aggregate sentence.

15 (3) An inmate may be released on parole at any time in order to
16 undergo drug or alcohol treatment, mental health treatment, or to participate in a
17 residential program of treatment in the best interest of an inmate's expected or
18 newborn child if the inmate:

19 (i) is not serving a sentence for a crime of violence, as defined
20 in § 14-101 of the Criminal Law Article;

21 (ii) is not serving a sentence for a violation of Title 3, Subtitle 6,
22 § 5-608(d), § 5-609(d), § 5-612, § 5-613, § 5-614, § 5-621, § 5-622, or § 5-628 of the
23 Criminal Law Article; and

24 (iii) has been determined to be amenable to treatment.

25 (b) Except as provided in subsection (c) of this section, if an inmate has been
26 sentenced to a term of imprisonment during which the inmate is eligible for parole and
27 a term of imprisonment during which the inmate is not eligible for parole, the inmate
28 is not eligible for parole consideration under subsection (a) of this section until the
29 inmate has served the greater of:

30 (1) one-fourth of the inmate's aggregate sentence; or

31 (2) a period equal to the term during which the inmate is not eligible
32 for parole.

33 (c) (1) (i) Except as provided in subparagraph (ii) of this paragraph,
34 an inmate who has been sentenced to the Division of Correction after being convicted
35 of a violent crime committed on or after October 1, 1994, is not eligible for parole until
36 the inmate has served the greater of:

1 1. one-half of the inmate's aggregate sentence for
2 violent crimes; or

3 2. one-fourth of the inmate's total aggregate sentence.

4 (ii) An inmate who has been sentenced to the Division of
5 Correction after being convicted of a violent crime committed on or after October 1,
6 1994, and who has been sentenced to more than one term of imprisonment, including a
7 term during which the inmate is eligible for parole and a term during which the
8 inmate is not eligible for parole, is not eligible for parole until the inmate has served
9 the greater of:

10 1. one-half of the inmate's aggregate sentence for
11 violent crimes;

12 2. one-fourth of the inmate's total aggregate sentence;
13 or

14 3. a period equal to the term during which the inmate is
15 not eligible for parole.

16 (2) An inmate who is serving a term of imprisonment for a violent
17 crime committed on or after October 1, 1994, shall receive an administrative review of
18 the inmate's progress in the correctional facility after the inmate has served the
19 greater of:

20 (i) one-fourth of the inmate's aggregate sentence; or

21 (ii) if the inmate is serving a term of imprisonment that
22 includes a mandatory term during which the inmate is not eligible for parole, a period
23 equal to the term during which the inmate is not eligible for parole.

24 **(D) (1) AN INMATE IS NOT ELIGIBLE FOR PAROLE CONSIDERATION**
25 **AND MAY NOT BE GRANTED PAROLE AT ANY TIME DURING THE INMATE'S**
26 **SENTENCE IF THE INMATE IS SERVING A TERM OF IMPRISONMENT FOR A**
27 **VIOLATION OF TITLE 3, SUBTITLE 3 OF THE CRIMINAL LAW ARTICLE**
28 **COMMITTED ON OR AFTER OCTOBER 1, 2010, AGAINST A MINOR.**

29 **(2) THIS SUBSECTION DOES NOT RESTRICT THE AUTHORITY OF**
30 **THE GOVERNOR TO PARDON OR REMIT ANY PART OF A SENTENCE UNDER**
31 **§ 7-601 OF THIS TITLE.**

32 **[(d)] (E) (1) Except as provided in paragraphs (2) and (3) of this**
33 **subsection, an inmate who has been sentenced to life imprisonment is not eligible for**
34 **parole consideration until the inmate has served 15 years or the equivalent of 15 years**

1 considering the allowances for diminution of the inmate's term of confinement under §
2 6–218 of the Criminal Procedure Article and Title 3, Subtitle 7 of this article.

3 (2) An inmate who has been sentenced to life imprisonment as a result
4 of a proceeding under § 2–303 or § 2–304 of the Criminal Law Article is not eligible for
5 parole consideration until the inmate has served 25 years or the equivalent of 25 years
6 considering the allowances for diminution of the inmate's term of confinement under §
7 6–218 of the Criminal Procedure Article and Title 3, Subtitle 7 of this article.

8 (3) (i) If an inmate has been sentenced to imprisonment for life
9 without the possibility of parole under § 2–203 or § 2–304 of the Criminal Law Article,
10 the inmate is not eligible for parole consideration and may not be granted parole at
11 any time during the inmate's sentence.

12 (ii) This paragraph does not restrict the authority of the
13 Governor to pardon or remit any part of a sentence under § 7–601 of this title.

14 (4) If eligible for parole under this subsection, an inmate serving a
15 term of life imprisonment may only be paroled with the approval of the Governor.

16 Article – Criminal Procedure

17 5–202.

18 **(G) A DISTRICT COURT COMMISSIONER MAY NOT AUTHORIZE THE**
19 **PRETRIAL RELEASE OF A DEFENDANT WHO IS REGISTERED UNDER § 11–704 OF**
20 **THIS ARTICLE.**

21 11–701.

22 (a) In this subtitle the following words have the meanings indicated.

23 (b) “Board” means the Sexual Offender Advisory Board.

24 (c) “Child sexual offender” means a person who:

25 (1) has been convicted of violating § 3–602 of the Criminal Law
26 Article;

27 (2) has been convicted of violating any of the provisions of the rape or
28 sexual offense statutes under §§ 3–303 through 3–307 of the Criminal Law Article for
29 a crime involving a child under the age of 15 years;

30 (3) has been convicted of violating the fourth degree sexual offense
31 statute under § 3–308 of the Criminal Law Article for a crime involving a child under
32 the age of 15 years and has been ordered by the court to register under this subtitle;

1 (4) has been convicted in another state or in a federal, military, or
2 Native American tribal court of a crime that, if committed in this State, would
3 constitute one of the crimes listed in items (1) and (2) of this subsection; or

4 (5) (i) has been adjudicated delinquent for an act involving a
5 victim under the age of 15 years that would constitute a violation of § 3–303, § 3–304,
6 § 3–305, or § 3–306 of the Criminal Law Article if committed by an adult; and

7 (ii) meets the requirements for registration under § 11–704(c) of
8 this subtitle.

9 (d) [“Commission” means the Maryland Parole Commission.

10 (e)] “Employment” means an occupation, job, or vocation that is full time or
11 part time for a period exceeding 14 days or for an aggregate period exceeding 30 days
12 during a calendar year, whether financially compensated, volunteered, or for the
13 purpose of government or educational benefit.

14 [(f) “Extended parole supervision offender” means a person who:

15 (1) is a sexually violent predator;

16 (2) has been convicted of a violation of § 3–303, § 3–304, § 3–305, §
17 3–306(a)(1) or (2), or § 3–307(a)(1) or (2) of the Criminal Law Article;

18 (3) has been convicted of a violation of § 3–309, § 3–310, or § 3–311 of
19 the Criminal Law Article or an attempt to commit a violation of § 3–306(a)(1) or (2) of
20 the Criminal Law Article;

21 (4) has been convicted of a violation of § 3–602 of the Criminal Law
22 Article for commission of a sexual act involving penetration of a child under the age of
23 12 years; or

24 (5) has been convicted more than once of a crime as a child sexual
25 offender, an offender, or a sexually violent offender.]

26 [(g) (E) “Local law enforcement unit” means the law enforcement unit in a
27 county that has been designated by resolution of the county governing body as the
28 primary law enforcement unit in the county.

29 [(h) (F) “Offender” means a person who is ordered by a court to register
30 under this subtitle and who:

31 (1) has been convicted of violating § 3–503 of the Criminal Law
32 Article;

1 (2) has been convicted of violating § 3–502 of the Criminal Law Article
2 or the fourth degree sexual offense statute under § 3–308 of the Criminal Law Article,
3 if the victim is under the age of 18 years;

4 (3) has been convicted of the common law crime of false imprisonment,
5 if the victim is under the age of 18 years and the person is not the victim’s parent;

6 (4) has been convicted of a crime that involves soliciting a person
7 under the age of 18 years to engage in sexual conduct;

8 (5) has been convicted of violating the child pornography statute
9 under § 11–207 of the Criminal Law Article;

10 (6) has been convicted of violating any of the prostitution and related
11 crimes statutes under Title 11, Subtitle 3 of the Criminal Law Article if the intended
12 prostitute or victim is under the age of 18 years;

13 (7) has been convicted of a crime that involves conduct that by its
14 nature is a sexual offense against a person under the age of 18 years;

15 (8) has been convicted of an attempt to commit a crime listed in items
16 (1) through (7) of this subsection; or

17 (9) has been convicted in another state or in a federal, military, or
18 Native American tribal court of a crime that, if committed in this State, would
19 constitute one of the crimes listed in items (1) through (8) of this subsection.

20 **[(i)] (G)** (1) Except as otherwise provided in this subsection, “release” means
21 any type of release from the custody of a supervising authority.

22 (2) “Release” means:

23 (i) release on parole;

24 (ii) mandatory supervision release;

25 (iii) release from a correctional facility with no required period of
26 supervision;

27 (iv) work release;

28 (v) placement on home detention; **[and]**

29 (vi) the first instance of entry into the community that is part of
30 a supervising authority’s graduated release program; **AND**

1 (VII) RELEASE FROM THE CUSTODY OF THE SECRETARY OF
2 HEALTH AND MENTAL HYGIENE.

3 (3) "Release" does not include:

4 (i) an escape; or

5 (ii) leave that is granted on an emergency basis.

6 [(j)] (H) "Sexually violent offender" means a person who:

7 (1) has been convicted of a sexually violent offense;

8 (2) has been convicted of an attempt to commit a sexually violent
9 offense; or

10 (3) (i) has been adjudicated delinquent for an act involving a
11 victim 15 years of age or older that would constitute a violation of § 3-303, § 3-304, §
12 3-305, or § 3-306 of the Criminal Law Article if committed by an adult; and

13 (ii) meets the requirements for registration under § 11-704(c) of
14 this subtitle.

15 [(k)] (I) "Sexually violent offense" means:

16 (1) a violation of §§ 3-303 through 3-307 or §§ 3-309 through 3-312 of
17 the Criminal Law Article;

18 (2) assault with intent to commit rape in the first or second degree or
19 a sexual offense in the first or second degree as prohibited on or before September 30,
20 1996, under former Article 27, § 12 of the Code; or

21 (3) a crime committed in another state or in a federal, military, or
22 Native American tribal jurisdiction that, if committed in this State, would constitute
23 one of the crimes listed in item (1) or (2) of this subsection.

24 [(l)] (J) "Sexually violent predator" means:

25 (1) a person who:

26 (i) is convicted of a sexually violent offense; and

27 (ii) has been determined in accordance with this subtitle to be at
28 risk of committing another sexually violent offense; or

1 (2) a person who is or was required to register every 90 days for life
2 under the laws of another state or a federal, military, or Native American tribal
3 jurisdiction.

4 **[(m)] (K)** “Supervising authority” means:

5 (1) the Secretary, if the registrant is in the custody of a correctional
6 facility operated by the Department;

7 (2) the administrator of a local correctional facility, if the registrant,
8 including a participant in a home detention program, is in the custody of the local
9 correctional facility;

10 (3) the court that granted the probation or suspended sentence, except
11 as provided in item (12) of this subsection, if the registrant is granted probation before
12 judgment, probation after judgment, or a suspended sentence;

13 (4) the Director of the Patuxent Institution, if the registrant is in the
14 custody of the Patuxent Institution;

15 (5) the Secretary of Health and Mental Hygiene, if the registrant is in
16 the custody of a facility operated by the Department of Health and Mental Hygiene;

17 (6) the court in which the registrant was convicted, if the registrant’s
18 sentence does not include a term of imprisonment or if the sentence is modified to time
19 served;

20 (7) the Secretary, if the registrant is in the State under terms and
21 conditions of the Interstate Compact for Adult Offender Supervision, set forth in Title
22 6, Subtitle 2 of the Correctional Services Article, or the Interstate Corrections
23 Compact, set forth in Title 8, Subtitle 6 of the Correctional Services Article;

24 (8) the Secretary, if the registrant moves to this State and was
25 convicted in another state of a crime that would require the registrant to register if the
26 crime was committed in this State;

27 (9) the Secretary, if the registrant moves to this State from another
28 state where the registrant was required to register;

29 (10) the Secretary, if the registrant is convicted in a federal, military, or
30 Native American tribal court and is not under supervision by another supervising
31 authority;

32 (11) the Secretary, if the registrant is not a resident of this State and
33 has been convicted in another state or by a federal, military, or Native American tribal
34 court;

1 (12) the Director of Parole and Probation, if the registrant is under the
2 supervision of the Division of Parole and Probation; or

3 (13) the Secretary of Juvenile Services, if the registrant was a minor at
4 the time the act was committed for which registration is required.

5 [(n)] (L) "Transient" means a nonresident registrant who enters a county of
6 this State with the intent to be in the State or is in the State for a period exceeding 14
7 days or for an aggregate period exceeding 30 days during a calendar year for a purpose
8 other than employment or to attend an educational institution.

9 11-704.

10 (a) Subject to subsection (c) of this section, a person shall register with the
11 person's supervising authority if the person is:

12 (1) a child sexual offender;

13 (2) an offender;

14 (3) a sexually violent offender;

15 (4) a sexually violent predator;

16 (5) a child sexual offender who, before moving into this State, was
17 required to register in another state or by a federal, military, or Native American
18 tribal court for a crime that occurred before October 1, 1995;

19 (6) an offender, sexually violent offender, or sexually violent predator
20 who, before moving into this State, was required to register in another state or by a
21 federal, military, or Native American tribal court for a crime that occurred before July
22 1, 1997; or

23 (7) a child sexual offender, offender, sexually violent offender, or
24 sexually violent predator who is required to register in another state, who is not a
25 resident of this State, and who enters this State:

26 (i) to carry on employment;

27 (ii) to attend a public or private educational institution,
28 including a secondary school, trade or professional institution, or institution of higher
29 education, as a full-time or part-time student; or

30 (iii) as a transient.

31 (b) Notwithstanding any other provision of law, a person is no longer subject
32 to registration under this subtitle if:

1 (1) the underlying conviction requiring registration is reversed,
2 vacated, or set aside; or

3 (2) the registrant is pardoned for the underlying conviction.

4 (c) (1) A person described under § 11-701(c)(5)(i) of this subtitle, or a
5 person described under § [11-701(j)(3)(i)] **11-701(H)(3)(I)** of this subtitle, shall
6 register with the person's supervising authority if:

7 (i) the person was a minor who was at least 13 years old at the
8 time the delinquent act was committed;

9 (ii) the State's Attorney or the Department of Juvenile Services
10 requests that the person be required to register;

11 (iii) 90 days prior to the time the juvenile court's jurisdiction
12 over the person terminates under § 3-8A-07 of the Courts Article, the court, after a
13 hearing, determines under a clear and convincing evidence standard that the person is
14 at significant risk of committing a sexually violent offense or an offense for which
15 registration as a child sexual offender is required; and

16 (iv) the person is at least 18 years old.

17 (2) If the person has committed a delinquent act that would cause the
18 court to make a determination regarding registration under paragraph (1) of this
19 subsection:

20 (i) the State's Attorney shall serve written notice to the person
21 or the person's counsel at least 30 days before a hearing to determine if the person is
22 required to register under this section; and

23 (ii) the Department of Juvenile Services shall:

24 1. provide the court with any information necessary to
25 make the determination; and

26 2. conduct any follow-up the court requires.

27 (3) The form of petitions and all other pleadings under this subsection
28 and, except as otherwise provided under Title 3 of the Courts and Judicial Proceedings
29 Article, the procedures to be followed by the court under this subsection shall be
30 specified in the Maryland Rules.

31 (4) The court may order an evaluation of the person in making the
32 determination under paragraph (1) of this subsection.

1 11-713.

2 The Department:

3 (1) as soon as possible but not later than 5 working days after
4 receiving the conviction data and fingerprints of a registrant, shall transmit the data
5 and fingerprints to the Federal Bureau of Investigation if the Bureau does not have
6 that information;

7 (2) shall keep a central registry of registrants;

8 (3) shall reimburse local law enforcement units for the cost of
9 processing the registration statements of registrants, including the cost of taking
10 fingerprints and photographs; [and]

11 (4) shall reimburse local law enforcement units for the reasonable
12 costs of implementing community notification procedures; **AND**

13 **(5) SHALL, WITHIN 5 WORKING DAYS AFTER RECEIVING A**
14 **REGISTRATION STATEMENT UNDER THIS SUBTITLE, SEND A COPY OF THE**
15 **REGISTRATION STATEMENT TO THE MOTOR VEHICLE ADMINISTRATION.**

16 11-717.

17 (a) (1) The Department shall make available to the public registration
18 statements or information about registration statements.

19 (2) Information about registration statements shall include, in plain
20 language that can be understood without special knowledge of the criminal laws of the
21 State, a description of the crime of the offender that is the basis for the registration,
22 excluding details that would identify the victim.

23 (b) The Department [may] **SHALL** post on the Internet a current listing of
24 each registrant's name, **KNOWN ALIASES**, crime, and other identifying information.

25 (c) The Department, through an Internet posting of current registrants,
26 shall allow the public to electronically transmit information the public may have about
27 a registrant to the Department, a parole agent of a registrant, and the local law
28 enforcement unit where a registrant resides or where a registrant who is not a
29 resident of the State will work or attend school.

30 (d) The Department shall allow members of the public who live in the county
31 in which the registrant is to reside or where the registrant, if not a resident of the
32 State, will work or attend school, by request, to receive electronic mail notification of
33 the release from incarceration of a registered offender and the registration information
34 of the offender.

1 (e) The Department shall establish regulations to carry out this section.

2 11-723.

3 (a) Except where a term of natural life without the possibility of parole is
4 imposed, a sentence for [an extended parole supervision offender] **THE FOLLOWING**
5 **PERSONS** shall include a term of [extended] **LIFETIME** sexual offender [parole]
6 supervision:

7 (1) **A PERSON WHO IS A SEXUALLY VIOLENT PREDATOR;**

8 (2) **A PERSON WHO HAS BEEN CONVICTED OF A VIOLATION OF §**
9 **3-303, § 3-304, § 3-305, § 3-306(A)(1) OR (2), OR § 3-307(A)(1) OR (2) OF THE**
10 **CRIMINAL LAW ARTICLE;**

11 (3) **A PERSON WHO HAS BEEN CONVICTED OF A VIOLATION OF §**
12 **3-309, § 3-310, OR § 3-311 OF THE CRIMINAL LAW ARTICLE OR AN ATTEMPT TO**
13 **COMMIT A VIOLATION OF § 3-306(A)(1) OR (2) OF THE CRIMINAL LAW ARTICLE;**

14 (4) **A PERSON WHO HAS BEEN CONVICTED OF A VIOLATION OF §**
15 **3-602 OF THE CRIMINAL LAW ARTICLE FOR THE COMMISSION OF A SEXUAL ACT**
16 **INVOLVING PENETRATION OF A CHILD UNDER THE AGE OF 12 YEARS; AND**

17 (5) **A PERSON WHO HAS BEEN CONVICTED MORE THAN ONCE OF A**
18 **CRIME AS A CHILD SEXUAL OFFENDER, AN OFFENDER, OR A SEXUALLY VIOLENT**
19 **OFFENDER.**

20 (b) The term of [extended] **LIFETIME** sexual offender [parole] supervision
21 [for a defendant sentenced] **IMPOSED ON A PERSON FOR A CRIME COMMITTED** on
22 or after August 1, 2006, shall:

23 (1) be [a minimum of 3 years to a maximum of] a term of life; and

24 (2) commence on the expiration of the later of any term of
25 imprisonment, probation, parole, [or] mandatory supervision, **OR COMMITMENT TO A**
26 **FACILITY OWNED AND OPERATED BY THE DEPARTMENT OF HEALTH AND**
27 **MENTAL HYGIENE IN ACCORDANCE WITH § 10-641 OF THE HEALTH - GENERAL**
28 **ARTICLE.**

29 (c) (1) **THE SENTENCING COURT SHALL IMPOSE SPECIAL**
30 **CONDITIONS OF LIFETIME SEXUAL OFFENDER SUPERVISION ON THE PERSON AT**
31 **THE TIME OF SENTENCING AND ADVISE THE PERSON OF THE LENGTH,**
32 **CONDITIONS, AND CONSECUTIVE NATURE OF THAT SUPERVISION.**

1 **(2) BEFORE IMPOSING SPECIAL CONDITIONS, THE SENTENCING**
2 **COURT SHALL ORDER A PRESENTENCE INVESTIGATION IN ACCORDANCE WITH §**
3 **6-112 OF THE CORRECTIONAL SERVICES ARTICLE.**

4 **(3) THE CONDITIONS OF LIFETIME SEXUAL OFFENDER**
5 **SUPERVISION MAY INCLUDE:**

6 **(I) MONITORING THROUGH GLOBAL POSITIONING**
7 **SATELLITE TRACKING OR EQUIVALENT TECHNOLOGY;**

8 **(II) WHERE APPROPRIATE AND FEASIBLE, RESTRICTING A**
9 **PERSON FROM LIVING IN PROXIMITY TO OR LOITERING NEAR SCHOOLS, FAMILY**
10 **DAY CARE CENTERS, CHILD CARE CENTERS, AND OTHER PLACES USED**
11 **PRIMARILY BY MINORS;**

12 **(III) RESTRICTING A PERSON FROM OBTAINING**
13 **EMPLOYMENT OR FROM PARTICIPATING IN AN ACTIVITY THAT WOULD BRING**
14 **THE PERSON INTO CONTACT WITH MINORS;**

15 **(IV) REQUIRING A PERSON TO PARTICIPATE IN A CERTIFIED**
16 **SEXUAL OFFENDER TREATMENT PROGRAM;**

17 **(V) PROHIBITING A PERSON FROM USING ILLICIT DRUGS OR**
18 **ALCOHOL;**

19 **(VI) AUTHORIZING A PAROLE AND PROBATION AGENT TO**
20 **ACCESS THE PERSON'S PERSONAL COMPUTER TO CHECK FOR MATERIAL**
21 **RELATING TO SEXUAL RELATIONS WITH MINORS;**

22 **(VII) REQUIRING A PERSON TO TAKE REGULAR POLYGRAPH**
23 **EXAMINATIONS;**

24 **(VIII) PROHIBITING A PERSON FROM CONTACTING SPECIFIC**
25 **INDIVIDUALS OR CATEGORIES OF INDIVIDUALS; AND**

26 **(IX) ANY OTHER CONDITIONS DEEMED APPROPRIATE BY THE**
27 **SENTENCING COURT.**

28 **(4) THE SENTENCING COURT MAY ADJUST THE SPECIAL**
29 **CONDITIONS OF LIFETIME SEXUAL OFFENDER SUPERVISION, IN CONSULTATION**
30 **WITH THE PERSON'S SEXUAL OFFENDER MANAGEMENT TEAM.**

1 [(a) The Maryland Parole Commission shall:

2 (1) enter into and sign extended sexual offender parole supervision
3 agreements with registrants sentenced to supervision under § 11-723 of this subtitle
4 that set out specific conditions of supervision;

5 (2) hear and adjudicate cases of extended sexual offender parole
6 supervision violations; and

7 (3) impose sanctions for extended sexual offender parole supervision
8 violations, including additional restrictive conditions.]

9 **(A) A PERSON SUBJECT TO LIFETIME SEXUAL OFFENDER SUPERVISION**
10 **MAY NOT KNOWINGLY OR WILLFULLY VIOLATE THE CONDITIONS OF THE**
11 **LIFETIME SEXUAL OFFENDER SUPERVISION IMPOSED UNDER § 11-723 OF THIS**
12 **SUBTITLE.**

13 **(B) A PERSON WHO VIOLATES ANY CONDITIONS IMPOSED UNDER §**
14 **11-723 OF THIS SUBTITLE:**

15 **(1) FOR A FIRST OFFENSE, IS GUILTY OF A MISDEMEANOR AND ON**
16 **CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING 5 YEARS OR A**
17 **FINE NOT EXCEEDING \$5,000 OR BOTH; AND**

18 **(2) FOR A SECOND OR SUBSEQUENT OFFENSE, IS GUILTY OF A**
19 **FELONY AND ON CONVICTION IS SUBJECT TO IMPRISONMENT NOT EXCEEDING**
20 **10 YEARS OR A FINE NOT EXCEEDING \$10,000 OR BOTH.**

21 **[(b)] (C)** Imprisonment for **[an extended]** A **LIFETIME** sexual offender
22 **[parole]** supervision violation is not subject to diminution credits.

23 **[(c)** Specific conditions of extended sexual offender parole supervision shall
24 commence upon release of the extended parole supervision offender from incarceration
25 or imposition of probation on the extended parole supervision offender and may
26 include:

27 (1) monitoring a registrant through global positioning satellite
28 tracking technology;

29 (2) where appropriate and feasible, restricting a registrant from living
30 in proximity to or loitering near schools, family day care centers, child care centers,
31 and other places primarily used by minors;

32 (3) restricting a registrant from obtaining employment or from
33 participating in an activity that would bring the registrant into contact with minors;

1 (4) requiring a registrant to participate in a certified sexual offender
2 treatment program;

3 (5) prohibiting a registrant from using illicit drugs or alcohol;

4 (6) authorizing parole agents to access the personal computer of a
5 registrant to check for material relating to sexual relations with minors;

6 (7) requiring a registrant to take regular polygraph examinations; and

7 (8) prohibiting a registrant from contacting specific individuals or
8 categories of individuals.]

9 **(D) (1) A VIOLATION OF SUBSECTION (A) OF THIS SECTION DOES NOT**
10 **DISCHARGE A PERSON FROM LIFETIME SEXUAL OFFENDER SUPERVISION.**

11 **(2) ON RELEASE FROM A SENTENCE IMPOSED UNDER**
12 **SUBSECTION (B) OF THIS SECTION, A PERSON REMAINS ON LIFETIME SEXUAL**
13 **OFFENDER SUPERVISION, SUBJECT TO THE ORIGINAL TERMS OF SUPERVISION,**
14 **UNTIL DISCHARGED UNDER SUBSECTION (G) OF THIS SECTION.**

15 **(E) DURING THE PERIOD OF LIFETIME SEXUAL OFFENDER**
16 **SUPERVISION, THE COURT MAY:**

17 **(1) ON WRITTEN CHARGES UNDER OATH OR ON VIOLATION OF A**
18 **CONDITION OF SUPERVISION, ISSUE A WARRANT REQUIRING THE PERSON**
19 **UNDER SUPERVISION TO BE BROUGHT OR TO APPEAR BEFORE THE JUDGE**
20 **ISSUING THE WARRANT:**

21 **(I) TO ANSWER THE CHARGE OF VIOLATION OF CONDITIONS**
22 **OF SUPERVISION; AND**

23 **(II) TO BE PRESENT FOR THE SETTING OF A HEARING DATE**
24 **FOR THAT CHARGE;**

25 **(2) REMAND THE PERSON TO A CORRECTIONAL FACILITY OR**
26 **RELEASE THE PERSON WITH OR WITHOUT BAIL PENDING THE HEARING OR**
27 **DETERMINATION OF THE CHARGE; AND**

28 **(3) IF AT THE HEARING THE COURT FINDS THAT THE PERSON**
29 **VIOLATED A CONDITION OF SUPERVISION, IMPOSE A SENTENCE AS PRESCRIBED**
30 **IN SUBSECTION (B) OF THIS SECTION.**

1 **(F) (1) THE JUDGE WHO ORIGINALLY IMPOSED THE LIFETIME**
2 **SEXUAL OFFENDER SUPERVISION SHALL HEAR ANY CHARGE OF VIOLATION OF**
3 **CONDITIONS OF SUPERVISION.**

4 **(2) IF THE JUDGE HAS BEEN REMOVED FROM OFFICE, HAS DIED**
5 **OR RESIGNED, OR IS OTHERWISE INCAPACITATED, ANOTHER JUDGE MAY ACT IN**
6 **THE MATTER.**

7 **[(d)] (G) (1) The [Commission] SENTENCING COURT shall hear and**
8 **adjudicate a petition for discharge from [extended] LIFETIME sexual offender [parole]**
9 **supervision [from a registrant].**

10 **(2) A [registrant] PERSON may file a petition for discharge after**
11 **-serving at least 3 years of extended sexual offender [parole] supervision.**

12 **(3) If a petition for discharge is denied, a [registrant] PERSON may**
13 **not renew the petition for a minimum of 1 year.**

14 **(4) A petition for discharge shall include:**

15 **(i) a risk assessment of the [registrant] PERSON conducted by**
16 **a [certified] sexual offender treatment provider within 3 months before the date of the**
17 **filing of the petition; and**

18 **(ii) a recommendation regarding the discharge of the**
19 **[registrant] PERSON from the sexual offender management team.**

20 **(5) (I) The [Commission] SENTENCING COURT MAY DENY A**
21 **PETITION FOR DISCHARGE WITHOUT A HEARING.**

22 **(II) THE COURT may not discharge a [registrant] PERSON from**
23 **[extended] LIFETIME sexual offender [parole] supervision unless the [Commission**
24 **determines] COURT MAKES A FINDING ON THE RECORD that the petitioner no**
25 **longer poses an unacceptable risk to community safety.**

26 **(6) (I) THE JUDGE WHO ORIGINALLY IMPOSED THE LIFETIME**
27 **SEXUAL OFFENDER SUPERVISION SHALL HEAR A PETITION FOR DISCHARGE.**

28 **(II) IF THE JUDGE HAS BEEN REMOVED FROM OFFICE, HAS**
29 **DIED OR RESIGNED, OR IS OTHERWISE INCAPACITATED, ANOTHER JUDGE MAY**
30 **ACT IN THE MATTER.**

31 **[(e)] The Commission shall have all of the powers set forth in § 7–205 of the**
32 **Correctional Services Article for the purpose of carrying out the duties of the**
33 **Commission under this subtitle.**

1 (f) The Commission shall appoint an administrator to coordinate the
2 requirements of extended sexual offender parole supervision under this subtitle.]

3 11-725.

4 (a) Under the supervision of the Division of Parole and Probation, a sexual
5 offender management team shall conduct [extended] **LIFETIME** sexual offender
6 [parole] supervision and the supervision of probation, parole, or mandatory release of
7 a [registrant] **PERSON** subject to [extended] **LIFETIME** sexual offender [parole]
8 supervision.

9 (b) A sexual offender management team:

10 (1) consists of:

11 (i) a specially trained parole **AND PROBATION** agent; and

12 (ii) a representative of a [certified sex offender treatment
13 provider] **SEXUAL OFFENDER TREATMENT PROGRAM OR PROVIDER**; and

14 (2) may include:

15 (i) victim advocates **OR VICTIM SERVICE PROVIDERS WITH**
16 **RECOGNIZED EXPERTISE IN SEXUAL ABUSE AND VICTIMIZATION**;

17 (ii) faith counselors;

18 (iii) employment counselors;

19 (iv) community leaders; [and]

20 (v) a [polygrapher] **POLYGRAPH EXAMINER WITH**
21 **RECOGNIZED EXPERTISE IN SEXUAL OFFENDER-SPECIFIC POLYGRAPH**
22 **EXAMINATION**;

23 **(VI) A LAW ENFORCEMENT OFFICER;**

24 **(VII) AN ASSISTANT STATE'S ATTORNEY;**

25 **(VIII) AN ASSISTANT PUBLIC DEFENDER; AND**

26 **(IX) A FOREIGN OR SIGN LANGUAGE INTERPRETER.**

1 (c) (1) A sexual offender management team shall submit a progress report
2 on each [registrant] **PERSON UNDER SUPERVISION** to the [Commission]
3 **SENTENCING COURT** once every 6 months.

4 (2) Unless disclosure of a report would be in violation of laws
5 regarding confidentiality of treatment records, a sexual offender management team
6 shall provide copies of each progress report to local law enforcement units of the
7 county in which the [registrant] **PERSON** resides [or where a sexual offender who is
8 not a resident of the State will work or attend school].

9 11-726.

10 The [Commission, with the advice of the Sexual Offender Advisory Board
11 established under § 1-401 of the Public Safety Article,] **DEPARTMENT OF PUBLIC**
12 **SAFETY AND CORRECTIONAL SERVICES** shall adopt regulations necessary to carry
13 out the duties of the [Commission under § 11-724 of] **DEPARTMENT RELATING TO**
14 **LIFETIME SEXUAL OFFENDER SUPERVISION UNDER** this subtitle.

15 **11-728.**

16 **IF A REGISTRANT IS ARRESTED ON SUSPICION OF ANY VIOLATION OF THE**
17 **CODE, THE REGISTRANT MAY NOT BE RELEASED FROM CUSTODY AND CHARGES**
18 **AGAINST THE REGISTRANT MAY NOT BE DISMISSED UNTIL THE REGISTRANT IS**
19 **BROUGHT BEFORE A JUDGE OF THE CIRCUIT COURT OF THE COUNTY IN WHICH**
20 **THE ARREST WAS MADE FOR AN EXAMINATION OF THE CIRCUMSTANCES**
21 **SURROUNDING THE ALLEGED VIOLATION.**

22 **Article – Health – General**

23 1-101.

24 (a) In this article the following words have the meanings indicated.

25 (c) “Department” means the Department of Health and Mental Hygiene.

26 (k) “Secretary” means the Secretary of Health and Mental Hygiene.

27 10-101.

28 (e) (1) Except as otherwise provided in this title, “facility” means any
29 public or private clinic, hospital, or other institution that provides or purports to
30 provide treatment or other services for individuals who have mental disorders.

31 (2) “Facility” does not include a Veterans’ Administration hospital.

1 (h) "State facility" means a facility that is owned or operated by the
2 Department.

3 **10-634. RESERVED.**

4 **10-635. RESERVED.**

5 **PART VI. SEXUALLY VIOLENT OFFENDER IN NEED OF COMMITMENT.**

6 **10-636.**

7 (A) IN THIS PART THE FOLLOWING WORDS HAVE THE MEANINGS
8 INDICATED.

9 (B) "COMMISSIONER" MEANS THE COMMISSIONER OF CORRECTION OF
10 THE DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES.

11 (C) "COMMITTED PERSON" MEANS A PERSON WHO HAS BEEN FOUND TO
12 BE A SEXUALLY VIOLENT OFFENDER IN NEED OF COMMITMENT UNDER § 10-638
13 OF THIS SUBTITLE AND HAS BEEN COMMITTED TO A STATE FACILITY.

14 (D) "MENTAL ABNORMALITY" MEANS A CONGENITAL OR ACQUIRED
15 CONDITION THAT AFFECTS EMOTIONAL OR VOLITIONAL CAPACITY TO
16 PREDISPOSE A PERSON TO COMMIT A SEXUALLY VIOLENT OFFENSE IN A
17 DEGREE THAT MAKES THE PERSON A MENACE TO THE HEALTH AND SAFETY OF
18 OTHERS.

19 (E) "PREDATORY ACT" MEANS AN ACT DIRECTED TOWARD:

20 (1) A STRANGER; OR

21 (2) AN INDIVIDUAL WITH WHOM A RELATIONSHIP HAS BEEN
22 ESTABLISHED OR PROMOTED FOR THE PRIMARY PURPOSE OF VICTIMIZATION.

23 (F) "SEXUALLY VIOLENT OFFENDER IN NEED OF COMMITMENT" MEANS
24 A SEXUALLY VIOLENT OFFENDER WHO IS PLACED IN THE CUSTODY OF THE
25 SECRETARY IN ACCORDANCE WITH § 10-643 OF THIS SUBTITLE.

26 (G) "SEXUALLY VIOLENT OFFENSE" HAS THE MEANING STATED IN §
27 11-701(K) OF THE CRIMINAL PROCEDURE ARTICLE.

28 **10-637.**

1 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, THE
2 COMMISSIONER SHALL GIVE WRITTEN NOTICE TO THE ATTORNEY GENERAL AT
3 LEAST 90 DAYS BEFORE THE ANTICIPATED RELEASE FROM A CORRECTIONAL
4 FACILITY OF A PERSON WHO HAS BEEN CONVICTED OF A SEXUALLY VIOLENT
5 OFFENSE.

6 (B) IF A PERSON IS RETURNED TO A CORRECTIONAL FACILITY FOR NOT
7 MORE THAN 90 DAYS AS A RESULT OF REVOCATION OF POSTRELEASE
8 SUPERVISION, THE COMMISSIONER SHALL GIVE WRITTEN NOTICE AS SOON AS
9 PRACTICABLE.

10 **10-638.**

11 A PERSON IS A SEXUALLY VIOLENT OFFENDER IN NEED OF COMMITMENT
12 IF THE PERSON:

13 (1) HAS BEEN CONVICTED OF A SEXUALLY VIOLENT OFFENSE;
14 AND

15 (2) SUFFERS FROM A MENTAL ABNORMALITY OR PERSONALITY
16 DISORDER, AS DETERMINED UNDER § 10-639 OF THIS SUBTITLE, THAT MAKES
17 THE PERSON LIKELY TO ENGAGE IN A PREDATORY ACT INVOLVING A SEXUALLY
18 VIOLENT OFFENSE.

19 **10-639.**

20 (A) THE ATTORNEY GENERAL SHALL DETERMINE WHETHER A PERSON
21 ABOUT WHOM THE COMMISSIONER GIVES NOTICE UNDER § 10-637 OF THIS
22 SUBTITLE MEETS THE CRITERIA OF A SEXUALLY VIOLENT OFFENDER IN NEED
23 OF COMMITMENT.

24 (B) TO MAKE THIS DETERMINATION, THE ATTORNEY GENERAL SHALL
25 RECEIVE RECOMMENDATIONS FROM:

26 (1) A REVIEW COMMITTEE OF PROSECUTORS, TO BE APPOINTED
27 BY THE ATTORNEY GENERAL; AND

28 (2) A MULTIDISCIPLINARY TEAM, TO BE APPOINTED BY THE
29 COMMISSIONER FROM REPRESENTATIVES OF THE DEPARTMENT OF HEALTH
30 AND MENTAL HYGIENE AND THE DEPARTMENT OF PUBLIC SAFETY AND
31 CORRECTIONAL SERVICES.

32 **10-640.**

1 THE COMMISSIONER, EMPLOYEES AND OFFICIALS OF THE DIVISION OF
2 CORRECTION, MEMBERS AND STAFF OF THE MULTIDISCIPLINARY TEAM AND
3 THE REVIEW COMMITTEE OF PROSECUTORS, AND PERSONS WHO CONTRACT OR
4 VOLUNTEER FOR SERVICES ARE NOT CIVILLY LIABLE FOR ACTS PERFORMED IN
5 GOOD FAITH IN CARRYING OUT THIS PART.

6 10-641.

7 (A) WITHIN 75 DAYS AFTER THE ATTORNEY GENERAL RECEIVES
8 WRITTEN NOTICE FROM THE COMMISSIONER UNDER § 10-637 OF THIS
9 SUBTITLE, THE ATTORNEY GENERAL MAY PETITION THE CIRCUIT COURT TO
10 FIND THAT PROBABLE CAUSE EXISTS TO BELIEVE THAT THE PERSON NAMED IN
11 THE PETITION IS A SEXUALLY VIOLENT OFFENDER IN NEED OF COMMITMENT.

12 (B) IF THE COURT FINDS PROBABLE CAUSE EXISTS, THE COURT SHALL:

13 (1) DIRECT THAT THE PERSON BE TAKEN INTO THE CUSTODY OF
14 THE SECRETARY; AND

15 (2) CONDUCT A TRIAL WITHIN 60 DAYS AFTER THE DATE OF THE
16 PROBABLE CAUSE HEARING TO DETERMINE THE STATUS OF THE PERSON AS A
17 SEXUALLY VIOLENT OFFENDER IN NEED OF COMMITMENT.

18 (C) THE PERSON NAMED IN THE PETITION SHALL BE ENTITLED TO BE
19 REPRESENTED BY COUNSEL, TO PRESENT EVIDENCE, TO CROSS-EXAMINE
20 WITNESSES, AND TO VIEW AND COPY ALL PETITIONS AND REPORTS IN THE
21 COURT FILE.

22 10-642.

23 (A) THE RULES OF EVIDENCE SHALL APPLY TO A TRIAL HELD UNDER
24 THIS SECTION.

25 (B) IF THE PERSON NAMED IN THE PETITION IS INDIGENT, THE COURT
26 SHALL APPOINT COUNSEL.

27 (C) (1) A PERSON NAMED IN THE PETITION MAY RETAIN AN EXPERT
28 TO PERFORM AN EXAMINATION.

29 (2) IF A PERSON NAMED IN THE PETITION WISHES TO BE
30 EXAMINED BY AN EXPERT OR OTHER INDIVIDUAL CHOSEN BY THE PERSON, THE
31 EXAMINER SHALL BE ALLOWED TO HAVE REASONABLE ACCESS TO THE PERSON
32 AS WELL AS TO RELEVANT MEDICAL AND PSYCHOLOGICAL RECORDS AND
33 REPORTS.

1 **(3) THE COURT SHALL ASSIST AN INDIGENT PERSON TO OBTAIN**
2 **AN EXPERT OR OTHER INDIVIDUAL TO PERFORM AN EXAMINATION OR**
3 **PARTICIPATE IN THE TRIAL ON THE BEHALF OF THE PERSON IF THE COURT**
4 **DETERMINES THE SERVICES ARE NECESSARY AND THE REQUESTED**
5 **COMPENSATION FOR THE SERVICES IS REASONABLE.**

6 **(D) THE PERSON NAMED IN THE PETITION, THE ATTORNEY GENERAL,**
7 **AND THE JUDGE ARE ENTITLED TO DEMAND THAT THE TRIAL BE HELD BEFORE**
8 **A JURY.**

9 **(E) AT A TRIAL UNDER THIS SECTION, THE STATE HAS THE BURDEN OF**
10 **PROVING BEYOND A REASONABLE DOUBT THAT THE PERSON NAMED IN THE**
11 **PETITION IS A SEXUALLY VIOLENT OFFENDER IN NEED OF COMMITMENT.**

12 **10-643.**

13 **IF THE COURT OR JURY DETERMINES THAT A PERSON IS A SEXUALLY**
14 **VIOLENT OFFENDER IN NEED OF COMMITMENT, THE PERSON SHALL BE PLACED**
15 **IN THE CUSTODY OF THE SECRETARY FOR CONTROL, CARE, AND TREATMENT AT**
16 **A STATE FACILITY UNTIL THE MENTAL ABNORMALITY OR PERSONALITY**
17 **DISORDER OF THE PERSON HAS SO CHANGED THAT THE PERSON IS NOT LIKELY**
18 **TO ENGAGE IN A PREDATORY ACT INVOLVING A SEXUALLY VIOLENT OFFENSE IF**
19 **RELEASED.**

20 **10-644.**

21 **(A) (1) A COMMITTED PERSON IS SUBJECT TO AN ANNUAL MENTAL**
22 **EXAMINATION IN A STATE FACILITY.**

23 **(2) AN OFFICIAL DESIGNATED BY THE PERSON IN CHARGE OF**
24 **THE STATE FACILITY SHALL COMPLETE A REPORT OF THE MENTAL**
25 **EXAMINATION AND SHALL FILE A COPY OF THE REPORT WITH THE COURT THAT**
26 **ORDERED THE COMMITTED PERSON TO A STATE FACILITY UNDER THIS PART.**

27 **(B) THE COURT SHALL CONDUCT AN ANNUAL STATUS REVIEW HEARING**
28 **FOR EACH COMMITTED PERSON.**

29 **(C) A COMMITTED PERSON SHALL BE ENTITLED TO PETITION THE**
30 **COURT FOR DISCHARGE AT THE ANNUAL STATUS REVIEW HEARING OF THE**
31 **COMMITTED PERSON.**

1 (D) (1) THE SECRETARY SHALL PROVIDE THE COMMITTED PERSON
2 WITH AN ANNUAL WRITTEN NOTICE OF THE RIGHT OF THE COMMITTED PERSON
3 TO PETITION THE COURT FOR RELEASE.

4 (2) THE SECRETARY SHALL FORWARD THE NOTICE TO THE
5 COURT WITH THE ANNUAL REPORT.

6 (3) THE COMMITTED PERSON IS ENTITLED TO AN ATTORNEY TO
7 REPRESENT THE COMMITTED PERSON AT THE ANNUAL STATUS REVIEW
8 HEARING, BUT THE COMMITTED PERSON IS NOT ENTITLED TO BE PRESENT AT
9 THE HEARING.

10 10-645.

11 (A) (1) THE COURT SHALL SET A RELEASE HEARING IF THE COURT AT
12 THE ANNUAL STATUS REVIEW HEARING DETERMINES THAT PROBABLE CAUSE
13 EXISTS TO BELIEVE THAT THE MENTAL ABNORMALITY OR PERSONALITY
14 DISORDER OF THE COMMITTED PERSON HAS CHANGED SO THAT THE
15 COMMITTED PERSON IS NOT LIKELY TO ENGAGE IN A PREDATORY ACT
16 INVOLVING A SEXUALLY VIOLENT OFFENSE IF RELEASED.

17 (2) AT THE RELEASE HEARING, THE COMMITTED PERSON IS
18 ENTITLED TO BE PRESENT AND TO USE ALL OF THE PROTECTIONS, INCLUDING
19 THE USE OF EXPERT WITNESSES, THAT WERE AVAILABLE AT THE INITIAL
20 HEARING UNDER § 10-642 OF THIS SUBTITLE.

21 (3) THE ATTORNEY GENERAL:

22 (I) SHALL REPRESENT THE STATE AT THE RELEASE
23 HEARING;

24 (II) MAY REQUEST A JURY TRIAL; AND

25 (III) MAY REQUEST THAT THE COMMITTED PERSON BE
26 EVALUATED BY EXPERTS CHOSEN BY THE STATE.

27 (4) THE STATE HAS THE BURDEN OF PROVING BEYOND A
28 REASONABLE DOUBT THAT THE MENTAL ABNORMALITY OR PERSONALITY
29 DISORDER OF THE COMMITTED PERSON REMAINS SO SEVERE AS TO MAKE THE
30 COMMITTED PERSON LIKELY TO ENGAGE IN A PREDATORY ACT INVOLVING A
31 SEXUALLY VIOLENT OFFENSE IF RELEASED.

32 (B) THE COURT SHALL RELEASE A COMMITTED PERSON FROM CUSTODY
33 IF THE COURT FINDS AT A RELEASE HEARING THAT THE STATE HAS NOT

1 PROVEN BEYOND A REASONABLE DOUBT THAT THE COMMITTED PERSON IS NOT
2 SAFE TO BE AT LARGE OR IS LIKELY TO ENGAGE IN A PREDATORY ACT
3 INVOLVING A SEXUALLY VIOLENT OFFENSE IF RELEASED.

4 **10-646.**

5 THIS PART DOES NOT AFFECT THE OPERATION OF TITLE 11, SUBTITLE 7
6 OF THE CRIMINAL PROCEDURE ARTICLE.

7 **Article – Transportation**

8 **12-303.2.**

9 (A) ON RECEIPT OF NOTICE FROM THE DEPARTMENT OF PUBLIC
10 SAFETY AND CORRECTIONAL SERVICES IN ACCORDANCE WITH § 11-713 OF THE
11 CRIMINAL PROCEDURE ARTICLE THAT A HOLDER OF OR AN APPLICANT FOR A
12 DRIVER'S LICENSE HAS REGISTERED UNDER § 11-704 OF THE CRIMINAL
13 PROCEDURE ARTICLE, THE ADMINISTRATION SHALL PLACE ON A DRIVER'S
14 LICENSE OR IDENTIFICATION CARD ISSUED OR REISSUED TO THE HOLDER OR
15 APPLICANT, A PROMINENT NOTATION THAT THE HOLDER IS A SEXUAL
16 OFFENDER REGISTRANT.

17 (B) A NOTATION PLACED IN ACCORDANCE WITH THIS SECTION MAY BE
18 REMOVED FROM A DRIVER'S LICENSE ONLY IF THE DEPARTMENT OF PUBLIC
19 SAFETY AND CORRECTIONAL SERVICES PROVIDES WRITTEN NOTICE TO THE
20 ADMINISTRATION THAT THE INDIVIDUAL IS NO LONGER SUBJECT TO
21 REGISTRATION UNDER TITLE 11, SUBTITLE 7 OF THE CRIMINAL PROCEDURE
22 ARTICLE.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 October 1, 2010.